



Town of Brookline

Massachusetts

PLANNING BOARD

Town Hall, 3rd Floor
333 Washington Street
Brookline, MA 02445
(617) 730-2130 Fax (617) 730-2442
TTY (617) 730-2327

Linda K. Hamlin, Chairman
Steven A. Heikin, Clerk
Robert Cook
Sergio Modigliani
Jonathan Simpson
Mark J. Zarrillo

BROOKLINE PLANNING BOARD MEETING MINUTES

Room 111, First Floor, Brookline Town Hall

September 17, 2015 – 7:30 p.m.

Board Present: Linda Hamlin, Steven Heikin, Robert Cook, Sergio Modigliani, and Mark Zarrillo

Staff Present: Polly Selkoe and Maria Morelli

Chair Linda Hamlin called the meeting to order at 7:30 pm.

BOARD OF APPEALS CASES

6 Harvard Street (Clover) – Add 13 seats to existing take-out establishment requiring parking relief (10/8) Pct. 6

Polly Selkoe described the zoning relief, and Attorney Bailey Gaffney presented the case.

Clover Food Lab exclusively provides take-out food although millwork counters do allow patrons to stand while eating. No off-street parking spaces are currently provided for employees or customers. The Applicant is proposing to install 13 new seats within the existing take-out establishment. Eight seats would be located at a free standing table near a front facing window and five barstool style seats would be located along an existing millwork countertop. No designated off-street parking spaces are proposed by the applicant. Per Section 6.02.1.b, the number of parking space required is 2.6.

Attorney Gaffney stated that similar requests for zoning relief have been approved by the ZBA in the past 18 months. The take-out location is close to public transit, which would compensate for the lack of parking on-site. She stated that applicant plans to install an ADA-compliant bathroom, though this issue falls under the Building Code issue and does not pertain to zoning. Polly Selkoe clarified that she recommends including a condition in the ZBA approval that the applicant will provide an ADA-compliant restroom. This condition would be recorded with the Registry of Deeds and therefore would serve as a convenient reminder for the Town, should a new restaurant lease this location. Steven Heikin added that evidence of a waiver from the Architecture Access Board (AAB) is an option that should be included in the condition, as well.

***Linda Hamlin motioned to recommend approval.
Robert Cook seconded the motion.***

Voted (5-0): The Planning Board recommends of approval of the seating plan submitted by SSD Architecture, dated 5/28/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans including seating locations and an ADA compliant restroom or evidence of a waiver from the Architectural Access Board, subject to review and approval by the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) final floor plans stamped and signed by a registered architect; 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

50 Arlington Road – Subdivide lot (pool and tennis court on newly created lot to be replaced by a dwelling) and modify previous 1970 BOA decision #1639 related to constructing an attached two car garage within the front yard setback and 1971 BOA decision #1639A related to a tennis court fence within the yard setback (10/1) Pct. 15

Polly Selkoe described the requested relief and Attorneys Bailey Gaffney and Robert Allen presented the proposal. The applicant, Rosemont Trust LLC, wishes to modify the property's past Board of Appeals decisions to allow for the lot to be subdivided into two lots. The existing structure is non-conforming as to front yard setback, and this condition will remain. The new subdivision plan would create a new side yard setback for the home of 10 feet, which is the requirement in S-10 zoning districts.

Attorney Allen stated that his clients are submitting a site plan and not an ANR plan at this meeting. As Attorney Allen explained, he prefers to have the site plan approved first and then, separately, the ANR plan, to keep the title clear. He added that Preservation Planner Greer Hardwicke was pleased that the existing house was not proposed for demolition (at least at this time).

Sergio Modigliani asked if this parcel is considered a corner lot. Polly Selkoe replied that it is, and therefore the applicant can decide which yards are rear- and side yards.

Public Comment

Residents who live on Arlington Road were concerned about the number of trees that would be removed, as well as what they perceive to be inadequate frontage. They are also felt that the two lots should remain in the same ownership and not be subdivided.

The applicant stated that the plan does not reflect any proposed removal of trees, although he could not state with certainty that the tree survey is accurate. No plan has been submitted for proposed construction on that lot.

Attorney Allen responded that BOA #1639-A imposed conditions for granting relief for the construction of the tennis court and pool. These conditions were to ensure that this area of the site would always be accessory to the house numbered 50 Arlington Road. The conditions pertaining to the construction of the tennis court and pool become moot with the removal of these features. Linda Hamlin added that the proposal for the second lot exceeds the minimum dimensional requirements for the lot area, lot width, and frontage.

***Linda Hamlin motioned to recommend approval.
Robert Cook seconded the motion.***

Voted (5-0): The Planning Board recommends approval of the plans submitted by VTP Associates, dated 6/12/2015, subject to the following conditions:

1. Prior to subdivision of the property, an ANR plan shall be submitted to the Planning Board for endorsement.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

DESIGN REVIEW

160 Washington Street (formerly Brookline Savings Bank) – review of revised driveway location and site plan for a proposed registered marijuana dispensary (10/8) Pct. 6

Polly Selkoe introduced the case, and Attorney Frank Stearns explained the reason for presenting a revised site plan: In April 2015, the Brookline ZBA approved a proposal to establish a Registered Marijuana Dispensary at 160 Washington Street in the former Brookline Bank building (BOA #2015-0002). The previous plan showed parking and vehicle ingress/egress using part of the neighboring lot at 19 Boylston Street, owned by Eversource, who had granted a license to the previous owner of 160 Washington to use the parking spaces. The revised site plan shows the parking and driveway solely on the lots at 160 Washington Street. Because a written decision has not yet been filed, the ZBA granted NETA's request to re-open the hearing to submit the revised site plan.

NETA was not cited for parking relief because the lot is a pre-existing, non-conforming condition; the commercial-use category remains the same, and no expansion of the building is proposed. A Traffic Demand Management plan is place. In addition, the Director of Transportation and Engineering, Peter Ditto, submitted a memo dated August 26, 2015, expressing support of the latest site plan. However, Polly Selkoe added that among Section 9.05's criteria for granting a special permit, the design of the parking area does need to be

evaluated to determine that “there will be no nuisance or serious hazard to vehicles or pedestrians.”

Mark Zarrillo disagreed with the opinions of the traffic engineers that the plan would be safe. He questioned why Section 6.04.4.b [entrance and exit drives shall be a minimum of 20 feet wide for two-way use] was not cited. Staff reminded the Board that this regulation does not apply to NETA, because the lot was built before July 27, 1962 (pursuant to Section 6.04.10). Nonetheless, Mr. Zarrillo emphasized that despite this exemption, the 14.5 foot wide driveway opening will not adequately accommodate two-way traffic, which would result in potentially hazardous back-ups on Route 9 West and possible collisions on the driveway.

Steven Heikin asked if NETA withdrew its request for an easement from Eversource. Attorney Stearns responded that a non-revocable license is the goal; however, because he cannot obtain definitive information from Eversource, he suspects that this license may not be granted.

Linda Hamlin asked if the architect could increase the driveway opening, perhaps to 16 feet. One option is to consider making the kiosk smaller, she suggested. The objective is to allow cars to drive onto the lot to wait for exiting cars to proceed down the driveway rather than queue on Route 9 and back up traffic. The Board acknowledged that increasing the width of the driveway to the full 20 feet would not be possible; however, increasing the width even a few feet could allow vehicles to pull onto the lot off Route 9. Ms. Hamlin asked if Eversource has the right to pass on the lot at 160 Washington. Attorney Stearns responded that Eversource does not.

The Board proposed removing some on-street parking to create a stacking lane on Route 9, though this would involve approval from the Brookline Transportation Board. Sergio Modigliani asked if NETA would consider a parking attendant.

Robert Cook stated that if NETA wants this plan to be considered, the applicant needs to show the Planning Board that other alternatives were explored to improve driveway.

In response to the Board’s suggestions, Attorney Robert Allen stated that some of these solutions, though worth pursuing, could create delays; he suggested that the Planning Board review a final site plan, reflecting any additional changes, after the scheduled October 8 ZBA hearing. Attorney Stearns and Stantec’s Rick Bryant emphasized the commitment to monitor the use of the parking under the TDM plan; in addition, cameras would monitor use of the parking lot. Attorney Stearns added that NETA should not be penalized for selecting a site with pre-existing non-confirming conditions.

Public Comment

Resident Julia Vien commented that because the Bank used a portion of the Eversource lot for ingress-egress, NETA’s site plan does not really reflect existing conditions. Polly Selkoe stated the Bank did not have an official easement agreement with Eversource.

Resident Richard Tuck commented that exiting onto Route 9 is dangerous. Because the bank had more pedestrian traffic than the RMD would, it is reasonable to expect that the RMD will generate more vehicular traffic, making the driveway as designed insufficient.

Davis Avenue resident Gordon Bennett commented that the parking plan is insufficient. Angela Hyatt of Walnut Street stated that she is concerned that the 14.5 foot wide driveway would not safely accommodate two-way traffic. Dan Saltzman asked the Board to clarify the purview of its

review. Polly Selkoe explained that the Board reviews the plan for adequate design, in particular to determine that the plan does not create hazards for traffic or pedestrians, among other relevant criteria, pursuant to Section 9.05, conditions for granting a special permit.

Summary of the Board's Discussion

The Board felt that the current width of the driveway opening (about 14.5 feet) would not adequately handle traffic flow to and from Route 9, because at busy times vehicles would queue on Route 9 while waiting to enter the site. At 14.5 feet wide, the driveway opening would not safely allow two-way traffic. Acknowledging that the driveway is a pre-existing, non-conforming condition, the Planning Board recommended several solutions that would improve safe access in and out of the site and urged the applicant to consider using one or more of the following methods:

- Increase the width of the driveway entrance by modifying the area around the kiosk or the kiosk itself
- Eliminate the 2-foot buffer on the left side of the lot
- Have a police officer and an attendant present to direct traffic in and out of the site
- Eliminate the existing on-street parking spaces between the parking lot entrance and Washington Street to provide a safe stacking lane for vehicles waiting to enter the lot
- Continue negotiations with Eversource, the abutting property owner, for a driveway easement to allow widening of the entrance

The Planning Board indicated that it would support approval of the facility if an appropriate solution to the access issue were offered. The Planning Board agreed to submit a memo to the ZBA stating with the above recommendations.

Linda Hamlin motioned to recommend submitting a memorandum to the Board of Appeals Robert Cook seconded the motion.

Voted (5-0): The Planning Board voted unanimously to submit a memorandum to the Board of Appeals recommending that NETA propose ways to resolve the driveway access issue. The Board recommended that its originally proposed condition— that the Planning Board have final review and approval of the site plan—be included in a ZBA approval, as follows:

1. Prior to issuance of a building permit, a final site plan, prepared by a registered engineer or land surveyor, and indicating all parking spaces, bicycle spaces, fencing, landscaping, trash and recycling, and utilities, shall be submitted to the Planning Board for review and approval.

Meeting adjourned at 9:30 pm.

Materials Reviewed During Meeting

- Staff Reports
- Site Plans and Elevations